

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

WILMAGUIE FIGUEROA-GAVILLAN,
et al.,

Plaintiffs,

v.

HOSPITAL ESPAÑOL AUXILIO MUTUO,
et al.,

Defendants.

Civil No. 08-1519 (JAF)

O R D E R

Plaintiffs, Wilmaguie Figueroa-Gavillán, Oscar Viera-Pérez, and the conjugal partnership between them, bring this action against Defendants, Hospital Español Auxilio Mutuo de Puerto Rico, Inc. ("Hospital"), Consolidated Emergency Services ("CES"), and various unknown parties, alleging violations of the Emergency Medical Treatment and Active Labor Act ("EMTALA"), 42 U.S.C. § 1395dd. (Docket No. 13.) Plaintiffs also allege supplemental claims of medical malpractice under Puerto Rico law against Dr. Arthur García Crescioni, his wife and conjugal partnership, and the previously-named Defendants. Defendant Hospital moves for summary judgment under Federal Rule of Civil Procedure 56(c) (Docket No. 30); Defendant CES joins Hospital's motion (Docket No. 33). Defendant García Crescioni filed a separate motion to dismiss the supplemental claims against him, contingent upon our granting Hospital and CES

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1 summary judgment on the EMTALA claims. (Docket No. 35.) Plaintiffs
2 Oppose. (Docket No. 39.)

3 Having considered the evidence submitted by Hospital and
4 Plaintiffs, we find that a genuine issue of material fact exists as
5 to whether Gavillán was "stabilized" in accordance with 42 U.S.C.
6 § 1395dd(e)(3)(B) prior to her discharge from the Clínica Expreso
7 Auxilio Mutuo on May 6, 2007.

8 Therefore, we hereby **DENY** Hospital and CES's motion for summary
9 judgment (Docket No. 30).

10 Because we retain jurisdiction over the federal EMTALA claim in
11 this case, jurisdiction over the supplemental Puerto Rico law claims
12 is proper under 28 U.S.C. § 1367 and we, therefore, **DENY** García
13 Crescioni's motion to dismiss (Docket No. 35).

14 The parties are encouraged to begin settlement negotiations. A
15 Settlement Conference shall be held on **November 25, 2009, at**
16 **1:30 P.M.** If the case cannot be settled, trial shall be held on
17 **November 30, 2009, at 9:00 A.M.**

18 **IT IS SO ORDERED.**

19 San Juan, Puerto Rico, this 28th day of October, 2009.

20 s/José Antonio Fusté
21 JOSE ANTONIO FUSTE
22 Chief U.S. District Judge
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